

APPEAL NO. 030551  
FILED APRIL 24, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 31, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first and second quarters. The claimant appeals the hearing officer's decision that she is not entitled to SIBs for the disputed quarters, arguing that she had no ability to work during the qualifying periods for the quarters, that she supplied a sufficient narrative from her doctor, and that she sufficiently quashed the respondent's (carrier) argument that there was an "other record" indicating that she had some ability to work. No response was received from the carrier.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in dispute is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying periods for the first and second quarters. The hearing officer determined that during the 26 weeks of the qualifying periods for the first and second SIBs quarters, the claimant had some ability to perform some type of work and that she did not attempt in good faith to obtain employment commensurate with her ability to work. The claimant contends that she had no ability to work during the qualifying periods. The hearing officer found that there is no narrative report from a doctor which specifically explains how the injury caused a total inability to work during any phase of the qualifying periods (See Rule 130.102(d)(4)) and that the claimant did not have a total inability to work for any portion of the qualifying periods at issue. In addition, the hearing officer noted at least two "other records" showing that the claimant had some ability to work during the qualifying periods for the first and second SIBs quarters.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **THE CONNECTICUT INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Terri Kay Oliver  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Michael B. McShane  
Appeals Panel  
Manager/Judge